

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

JOE WADDLE,

Petitioner,

3:13-cv-01114-SU

v.

FINDINGS AND
RECOMMENDATION

MARION FEATHER,

Respondent.

SULLIVAN, Magistrate Judge.

Petitioner, a federal inmate, filed a petition under 28 U.S.C. § 2241, alleging that the BOP committed a breach of contract when BOP staff adjusted his Inmate Financial Responsibility Program (IFRP) payment amount and requested he sign a revised Inmate Financial Plan.

On September 13, 2013, respondent moved to deny the petition and dismiss this proceeding on the grounds that petitioner failed to exhaust administrative remedies as to his

claim and also because the BOP has the legal authority to collect fines through the IFRP program. Montano-Figueroa v. Crabtree, 162 F.3d 548, 550 (9th Cir. 1998).

Petitioner did not file a reply to respondent's response. Petitioner's projected release date was July 2, 2014. On February 6, 2014, petitioner filed a notice of change of address that indicates he is no longer incarcerated. Petitioner has not contacted the court since that time.

Because petitioner is no longer subject to the IFRP, his claim in this proceeding is moot. See, Wilson v. Terhune, 319 F.3d 477, 479 (9th Cir. 2003).

Moreover, as noted above, the BOP has the legal authority to do what petitioner objects to in his petition. Petitioner's Petition (#1) should be denied. The Clerk of the Court should be directed to enter a judgment dismissing this proceeding.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the

objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

DATED this _8th_ day of May, 2015.

/s/ Patricia Sullivan
Patricia Sullivan
United States Magistrate Judge